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Attorneys for Defendants
UBS Financial Services Inc., (also sued as UBS/Paine
Webber) and UBS PartnerPlus Plan (erroneously sued as
UBS/Paine Webber Partner's Plus)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Alva Gene Thaning,

Plaintiff,

v.

UBS/Paine Webber, UBS/Paine Webber Partner's
Plus, UBS Financial Services, Inc.,

Defendants.

No. 07-5528 MJJ

**DECLARATION OF MICHAEL
O'CONNELL IN SUPPORT OF
DEFENDANTS' MOTION TO
COMPEL ARBITRATION AND
STAY PROCEEDINGS**

Date: February 26, 2008
Time: 9:30 a.m.
Place: Courtroom 11, 19th Flr.
Judge: Hon. Martin J. Jenkins

1 Michael O'Connell declares:

2 1. I am employed by Defendant UBS Financial Services Inc. ("UBSFS") as a
3 Branch Office Manager for UBSFS' Walnut Creek, California Branch Office; I hold the title of
4 Executive Director. I have been employed by UBSFS and its predecessor entities since
5 September 19, 1983. Among my other responsibilities, I supervised Plaintiff Alva Gene Thaning
6 from October, 1995 through the end of his employment. I have personal knowledge of the facts
7 set forth in this Declaration and would be competent to testify to them if called upon to do so.

8 2. Alva Gene Thaning was employed by UBSFS as a registered
9 representative. As a registered representative, Thaning was required to execute a Form U-4
10 agreement. Attached as Exhibit A is a true and correct copy of Thaning's Form U-4. I am
11 familiar with Thaning's signature and recognize the signature on page 4 of the Form U-4 to be
12 Thaning's.

13 3. In connection with customer complaints which arose during his
14 employment, Thaning was required to amend the disclosures required to be made under the Form
15 U-4 agreement as required by National Association of Securities Dealers ("NASD") rules. On at
16 least two occasions related to a customer complaint, Thaning was provided with a written
17 confirmation of his obligations under the Form U-4 agreement to arbitrate disputes, including
18 disputes between him and USBSFS. Attached as Exhibit B is a true and correct copy of a cover
19 memorandum dated November 26, 2001 containing the written confirmation which was provided
20 to Thaning, as well as the amended disclosures to the Form U-4 Agreement signed by both me
21 and Thaning. Attached as Exhibit C is a true and correct copy of a cover memorandum dated
22 February 13, 2003 containing the written confirmation which was provided to Thaning, as well
23 as the amended disclosures to the Form U-4 Agreement signed by both me and Thaning.

24 4. UBSFS, as a registered securities broker/dealer was, at all relevant times,
25 and currently is a member firm of the Financial Industry Regulatory Authority ("FINRA") or its
26 predecessor entities -- the NASD and the enforcement unit of the New York Stock Exchange.

27 5. Attached as Exhibit D is a true and correct copy of the UBS PartnerPlus
28 Plan for Financial Advisors, which represents the amendment and restatement of the previous

1 plan document, the PaineWebber PartnerPlus Plan sponsored by UBSFS's predecessor entity,
2 Paine Webber Group Inc. This version of the UBS PartnerPlus Plan was in effect as of January
3 1, 2004.

4 6. Attached as Exhibit E is a true and correct copy of the Form U-5 submitted to
5 FINRA which sets forth the reasons for Thaning's termination.

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7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed this 11th day of January, 2008 in Walnut Creek, California.
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11 /s/ Michael O'Connell

Michael O'Connell
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ATTESTATION CLAUSE

I, Walter M. Stella, am the ECF user whose ID and password are being used to file this Declaration of Michael O'Connell. In compliance with General Order 45, X.B., I hereby attest that Michael O'Connell has concurred in this filing, and that I have on file Mr. O'Connell's holograph signature on this Declaration.

DATED: January 11, 2008

BINGHAM McCUTCHEN LLP

By: /s/ Walter M. Stella

Walter M. Stella
Attorneys for Defendant
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